

MINUTES OF THE SPECIAL JOINT CITY COUNCIL,  
ALAMEDA REUSE AND REDEVELOPMENT AUTHORITY (ARRA), AND  
COMMUNITY IMPROVEMENT COMMISSION (CIC) MEETING  
TUESDAY- -MARCH 15, 2011- -7:01 P.M.

Mayor/Chair Gilmore convened the meeting at 8:20 p.m.

ROLL CALL - Present: Councilmembers / Board Members / Commissioners  
Bonta, deHaan, Johnson, Tam and Mayor/Chair  
Gilmore – 5.

Absent: None.

CONSENT CALENDAR

Councilmember/Board Member Tam announced that she would recuse herself from the EBMUD JPA [paragraph no. 11-138 CC/11-11-030 ARRA], which was removed from the Consent Calendar.

Councilmember/Board Member/Commissioner Johnson announced that she would abstain from voting on the March 8<sup>th</sup> minutes.

Councilmember/Board Member/Commissioner deHaan moved approval of the remainder of the Consent Calendar.

Vice Mayor/Board Member/Commissioner Bonta seconded the motion, which was carried by unanimous voice vote – 5. [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(\*11-137 CC/11-029 ARRA/11-018 CIC) Minutes of the Special Joint City Council, ARRA, and CIC Meeting Held on February 15, 2011; the Special Joint City Council, CIC, and Housing Authority Board of Commissioners (HABOC) Meeting Held on March 1, 2011; the Special CIC and HABOC Meeting Held on March 2, 2011; and the Special Joint City Council and CIC Meeting Held on March 8, 2011. Approved.

[Note: Councilmember/Board Member/Commissioner Johnson abstained from voting on the March 8<sup>th</sup> minutes.]

(\*11-138 CC/11-030 ARRA) CC Resolution No. 14558/ARRA Resolution No. 53, “Authorizing the Acting City Manager and the Acting Executive Director to Execute the Joint Exercise of Powers Agreement to Inspect, Operate, and Maintain the Alameda Point Water System in Preparation for Transfer of Potable Water Infrastructure with East Bay Municipal Utility District.” Adopted.

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Councilmember/Board Member Tam left the dais at 7:06 p.m. and returned at 7:08 p.m.

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Councilmember/Board Member deHaan moved adoption of the resolution.

Vice Mayor/Councilmember Bonta seconded the motion, which carried by the following voice vote: Ayes: Councilmembers/Board Members Bonta, deHaan, Johnson and Mayor/Chair Gilmore - 4. Abstention: Councilmember/Board Member Tam – 1.

### AGENDA ITEMS

(11-139 CC/11-031 ARRA) Recommendation to Authorize the Acting Executive Director and Acting City Manager to Bind Pollution Legal Liability Insurance Coverage for Alameda Point with XL Environmental for a Cost of \$720,112.

The Acting City Attorney/Legal Counsel gave a brief presentation.

Vice Mayor/Board Member Bonta inquired whether XL Environmental would not cover anything that was previously covered.

Patrician Blau, Marsh Risk Services, responded unfortunately, in the last ten years, insurance carriers have found that the loss has not been favorable so no market is offering coverage.

Councilmember/Board Member deHaan inquired whether any claims have been filed, to which the Risk Manager responded not at Alameda Point.

Councilmember/Board Member Johnson inquired whether the new policy would have additional exclusions that were not in the previous policy.

The Risk Manager responded some additional exclusions would be overridden through endorsements, such as an early transfer restriction; under an early transfer, XL Environmental would not be responsible to clean up anything that is known, only what is unknown.

Councilmember/Board Member Johnson inquired whether the Navy still considers the transfer an early transfer.

The Acting City Attorney/Legal Counsel responded the Navy would still be on the hook for clean up.

Councilmember/Board Member Johnson inquired whether the insurance would cover a privatized clean up.

The Deputy City Manager – Development Services responded the policy would not have a cost-cap and would not cover clean up of known substances.

Councilmember/Board Member Johnson questioned whether staff is being careful regarding early transfer language; stated the Navy still refers to the entire transfer as an early transfer.

The Acting City Attorney/Legal Counsel responded early transfer was excluded all together; the [proposed] coverage is better now and there would only be an exclusion for some situations of early transfer; a known condition that the transferee plans to clean up would be excluded.

Councilmember/Board Member Johnson inquired whether there are any other additional exclusions.

The Risk Manager responded the marsh crust; stated XL Environmental would pay for any accidental penetration and subsequent pollution but would not pay for anything intentional or willful.

Councilmember/Board Member deHaan inquired whether staff delineated what to include in the policy and Chubb just missed it; further inquired whether staff provided Chubb with an opportunity to update the policy.

The Risk Manager responded many opportunities were provided; stated Chubb would not come to the table with respect to asbestos and lead paint which would be the more likely scenarios for future property damage and bodily injury.

Councilmember/Board Member Johnson moved approval of the staff recommendation.

Councilmember/Board Member deHaan seconded the motion, which was carried by unanimous voice vote – 5.

## ADJOURNMENT

There being no further business, Mayor/Chair Gilmore adjourned the meeting at 8:34 p.m.

Respectfully submitted,

Lara Weisiger, City Clerk  
Secretary, CIC

The agenda for this meeting was posted in accordance with the Brown Act.